



Texas Department of Insurance

Division of Workers' Compensation

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Memorandum

To: Workers' Compensation System Participants

From: Jeff Carothers, Director of the Office of Workers' Compensation Counsel

Date: March 20, 2012

Subject: Proposals: Amend 28 TAC §§133.307, 133.308, 144.1–144.7 and 144.9–144.16
Regarding MDR of Fee Disputes, MDR by Independent Review Organizations, and Arbitration

The Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) is accepting public comments on the proposed amendments to 28 Texas Administrative Code (TAC) §§133.307, 133.308, 144.1–144.7, and 144.9–144.16.

The proposed amendments to 28 TAC §133.307 and §133.308 relate to medical dispute resolution (MDR) activities conducted by the TDI-DWC. The purpose of these amendments is to conform the rules to various statutory amendments that concern medical fee dispute resolution and the resolution of disputes of independent review organization (IRO) decisions by the TDI-DWC. Specifically, these proposed amendments are necessary to clarify existing rules and implement and enforce statutory provisions of House Bill (HB) 2605 and Senate Bill 809, enacted by the 82nd Legislature, Regular Session, that impact the appeal of medical fee dispute resolution cases and decisions issued by IROs.

The proposed amendments to 28 TAC §§144.1–144.7 and 144.9–144.16 relate to the arbitration of medical fee dispute cases and are necessary to implement sections of HB 2605 that impact the appeal of medical fee dispute resolution cases adjudicated by the TDI-DWC. The proposed amendments also include other amendments unrelated to HB 2605 that are intended to update the existing rules governing arbitration by the TDI-DWC and correctly reflect statutory authority and practices by the TDI-DWC.

The TDI-DWC is also proposing revisions to DWC Form-060, *Medical Fee Dispute Resolution Request*, and DWC Form-044, *Election to Engage In Arbitration*. The TDI-DWC is proposing new DWC Form-045M, *Request to Schedule, Reschedule, or Cancel a Benefit Review Conference for Appeal of a Medical Fee Dispute Decision (BRC-MFD)*, and new DWC Form-049, *Request to Schedule Medical Contested Case Hearing*. These proposed TDI-DWC forms are intended to conform to these proposed rules and implement legislative changes.

The proposals will publish in the March 23, 2012, issue of the *Texas Register* and may be viewed on the Secretary of State website at <http://www.sos.state.tx.us/texreg/index.shtml> once published. A courtesy copy of the proposals is currently available on the TDI website at <http://www.tdi.texas.gov/wc/rules/proposedrules/index.html>. The public comment period on the

proposals closes Monday, April 23, 2012 at 5 p.m. Central Standard Time (CST). Comments received after the close of comment will not be considered.

Public comments may be submitted by e-mailing rulecomments@tdi.state.tx.us or by mailing or delivering the comments to Maria Jimenez at:

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A public hearing on these proposals will be held on Friday, April 13, 2012 at 9:30 a.m. CST in the Tippy Foster Room of the TDI-DWC Central Office, 7551 Metro Center Drive, Suite 100 in Austin, Texas. The TDI-DWC provides reasonable accommodations for persons attending meetings, hearings, or educational events, as required by the Americans with Disabilities Act. If you require accommodations in order to attend the hearing please contact Idalia Salazar at (512) 804-4403 at a minimum two business days prior to the confirmed hearing date.

The hearing will also be audio streamed. To listen to the audio stream access the Public Outreach Events/Training Calendar posted on the TDI website at <http://www.tdi.texas.gov/wc/events/index.html> and then click on the "Broadcast" link for the hearing. Media Player 7 (or newer version) or RealPlayer 10 (or newer version) is required to hear the audio stream. Audio streaming will begin approximately five minutes before the scheduled time of the hearing.

The public hearing date, time, and location should be confirmed by those interested in attending or listening via audio stream. The hearing may be confirmed by visiting the Public Outreach Events/Training Calendar posted on the TDI website at <http://www.tdi.texas.gov/wc/events/index.html>. Written and oral comments presented at the hearing will be considered.

If there are any questions regarding the information in this memo, contact Rebecca Vann at (512) 804-4282 or Rebecca.Vann@tdi.state.tx.us.